



Stormwater Remediation Fee

What is the Stormwater Remediation Fee?

Effective July 2012, the Maryland State Legislature passed the "Stormwater Management - Watershed Protection and Restoration Program", also known as House Bill 987. The text of HB987 can be found at: <http://mgaleg.maryland.gov/2012rs/bills/hb/hb0987e.pdf>. The law requires nine counties (including Frederick County) and the City of Baltimore to establish a stormwater remediation fee on or before July 1, 2013. The law requires:

- A stormwater remediation fee, and
- A local watershed protection and restoration fund (i.e. special revenue fund); and
- A process for appeals, credits and hardship claims.

How Much Does Frederick County Charge?

The Board of County Commissioners voted on May 30, 2013 to adopt a one cent (\$0.01) per year fee on all eligible properties. You can watch the video archive of the BOCC May 30th meeting at <http://www.frederickcountymd.gov/media/>

The fee was first charged on July 1, 2013 and is charged on yearly property tax bills. The law does not require jurisdictions to charge any particular amount or to fund all of their stormwater compliance costs through the fee. Funds collected through the fee will be set aside to pay for stormwater-related activities as required by the law. The county has budgeted \$5.35M in Fiscal Year 2015 for stormwater permit compliance through the general fund from taxes. It currently plans to continue funding stormwater programs through the general fund. The county has been increasing its budget in response to steepening compliance costs. Its budget from Fiscal Year 2014 was an estimated \$3.56M, and a per year average of previous years was \$2.5M.

Some jurisdictions have chosen to charge based on the size of the building or charge a certain amount for untreated impervious area. In some areas of the state, fees are predicted to cost a substantial amount where properties have large amounts of untreated impervious areas.

Who Is Charged the Fee?

Improved properties. Local and state governments as well as volunteer fire companies are exempt by law. As allowed in the law, the county is electing not to charge properties in municipalities because many have their own stormwater permit requirements. The County does not wish to duplicate costs on these citizens. Agricultural and not-for-profit properties are required to pay the fee.

I Want to Apply for a Credit

A credit program is required by HB987 and will be adopted in the future through the direction of the Director of the Community Development Division.

I Want To Appeal My Fee

A property owner may appeal a stormwater remediation fee assessment as required by HB987. An appeal shall be submitted to the Director of the Treasury on or before September 30 to receive a correction of the fee. The property owner shall include a detailed statement of the grounds of the appeal and supporting information on the grounds for the appeal. The Community Development Division will issue a determination on the appeal on behalf of the Director.

Grounds for appeal include:

- Mathematical errors in calculating the fee;
- The real property is not subject to the fee under § 1-15.2-11.5 of the ordinance;
- The property owner is exempt from the fee under § 1-15.2-11.6 of the ordinance;
- Errors in the identification of the property owner or real property subject to the fee.

I Have a Financial Hardship

There is a financial hardship program required by HB987. To qualify for a substantial financial hardship exemption the property must already have an exemption for the County's Bay Restoration Fund Fee. Properties with this exemption will automatically be exempt under the stormwater utility fee.

How Much Revenue Will Be Generated?

Approximately \$494.85 in 2014, based on one cent from 49,485 properties charged July 1, 2014.

What are Frederick County's Regulatory Requirements for Stormwater?

The County is required to comply with a federal Clean Water Act National Pollutant Discharge Elimination System (NPDES) permit for its Municipal Separate Storm Sewer System (MS4). The County's NPDES MS4 permit has substantial requirements for monitoring, mapping, inspections, maintenance, special studies, and other tasks. The most expensive requirement is to retrofit surfaces in urban areas with stormwater management facilities. The state requires retrofits because these areas do not allow water to filter and percolate. The County predicts that its next National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) permit, currently in draft, would cost the county over \$142.2 Million to comply, including \$126.7 Million for stormwater retrofits.

The County also has Industrial Discharge Permits for Stormwater for a number of its facilities. These permits require quarterly and yearly inspections, trainings, good housekeeping, and other actions to control stormwater discharges.

I Heard the Fee Called Something Else

You may have heard the fee referred to as a "rain tax." This is not an official term the state uses, but one that has been used to describe the state law.

Is Frederick County in Compliance with the Law?

On October 25, 2013, Maryland Department of the Environment Secretary Robert Summers wrote a letter to Board of County Commissioners President Blaine Young about the County's compliance with HB987. In his letter, the Secretary expressed concern that the amount of fee to be generated would not be adequate to fund Frederick County's entire stormwater program. He also asked the County to explain how it would fund its next MS4 permit with the fee. The letter did not state that Frederick County was found to be in violation of the law; however Carroll County Government, in refusing to enact a fee, was sent a letter from the Office of the Attorney General on October 25, 2013 to this effect.

On January 3, 2014, Shannon Moore from the Frederick County Office of Sustainability and Environmental Resources sent a letter to Secretary Summers on behalf of the County Manager explaining the following four points:

1. Frederick County is in compliance with the requirements of §4-202.1 of the Environment Article.
2. Frederick County is adequately funding its stormwater obligations.
3. MDE has consistently found Frederick County Government to be in compliance with its NPDES MS4 permit.
4. Frederick County cannot predict the final future permit.

What is the Future of the Fee?

The Board of County Commissioners of Frederick County plans to continue to charge \$0.01 per eligible account and fund its stormwater regulatory obligations through the general fund at this time.

The Maryland Department of Legislative Services (DLS) prepared a report that compares local government implementation, "Stormwater Remediation Fees in Maryland – Local Implementation of House Bill 987 of 2012," available at

<http://mgaleg.maryland.gov/Pubs/LegisLegal/2013-Stormwater-Remediation-Fees-in-Maryland.pdf>.

The 2014 General Assembly Session began January 8, 2014 and saw a number of bills created that would modify or repeal the existing law. These bills did not receive favorable reports in their committees and were dropped.

Who Can I Contact for More Information?

For more information, contact Shannon Moore, Manager of the Office of Sustainability and Environmental Resources at smoore@frederickcountymd.gov or 301.600.1413.